

President authority to control exports for reasons of national security and foreign policy, while also responding to the need of U.S. exporters to compete in the global marketplace.

Extensive consultation took place with representatives of the previous Administration, including the Commerce Department, the Defense Department, the intelligence agencies and the National Security Council, as well as representatives of the different industry groups. I also understand that during the campaign then-Governor Bush also endorsed this legislation, and we would hope to work closely with the new Administration on this bill.

I would like to commend Senator ENZI (who was the chairman of the International Trade and Finance Subcommittee of the Banking Committee in the last Congress), Senator JOHNSON (who was the ranking member of the Subcommittee), and Senator GRAMM, as well as their staffs, for their efforts to develop a bipartisan consensus on this legislation.

The legislation generally tracks the authorities provided the President under the Export Administration Act which expired in 1990. However a significant effort was made, with the assistance of the Legislative Counsel's Office, to provide these authorities in a more clear and straightforward manner. We believe this will make the statute both easier for the executive branch agencies to administer and for exporters to comply with.

The bill also makes a number of significant improvements to the EAA. I would like to mention just a few. The legislation provides for the first time a statutory basis for the resolution of interagency disputes over export license applications. The intent is to provide an orderly process for the timely resolution of disputes, while allowing all interested agencies a full opportunity to express their views. This was an issue of great concern to the Administration, the national security community, and industry. I believe we have reached a reasonable resolution of this issue in the bill.

The bill significantly increases both criminal and civil penalties for violations of the Export Administration Act, reflecting the seriousness of such violations.

The bill provides new authority to the President to determine that a good has mass market status in the United States and should therefore be decontrolled. The President retains authority to set aside a mass market determination if he determines it would constitute a serious threat to national security and continued export controls would be likely to advance the national security interests of the United States. This was a provision of great importance to U.S. exporters.

At the urging of Senator ENZI, the bill contains a provision that would re-

quire the President to establish a system of tiers to which countries would be assigned based on their perceived threat to U.S. national security. The intent is to provide exporters a clear guide as to the licensing requirements of an export of a particular item to a particular country.

The bill would also require that any foreign company that declined a U.S. request for a post-shipment verification of an export would be denied licenses for future exports. The President would have authority to deny licenses to affiliates of the company, and to the country in which the company is located as well.

On balance, I believe this bill is a very balanced piece of work. It commanded unanimous bipartisan support in the Banking Committee in the last Congress. It is my belief that it will receive broad bipartisan support in the Banking Committee and in the full Senate in this Congress. I believe it will be the first bill the Banking Committee will act on this year, and I would hope we could move it quickly to consideration by the full Senate. Early action by the full Senate would, in turn, give the House more time to act on the bill. I am hopeful that this will be the Congress in which the Export Administration Act is enacted back into law.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

#### HEALTH INSURANCE FOR SMALL BUSINESS

Mr. KERRY. Mr. President, I am proud to be an original cosponsor of the Self-Employed Health Insurance Fairness Act. As the Ranking Democratic Member on the Senate Committee on Small Business, I know how important access to health insurance is for small businesses. Today, approximately 42.5 million Americans lack health insurance. Unfortunately, employees of small businesses are much more likely to be uninsured than employees of large firms.

Current law allows qualified small businesses to deduct 60 percent of their health insurance payments. The cost of health insurance and the lack of a full deduction has kept many small businesses from obtaining health insurance for their employees. In 1998, an estimated 12.5 million workers were self-employed but only about 3.2 million tax returns claimed the self-employed health insurance deduction. In 1998, 34 percent of workers in firms with fewer than 10 employees lacked health insurance compared with only 13 percent of

workers in firms with more than 1,000 employees. Clearly, the cost of health insurance has kept many small businesses from offering health insurance. Many small businesses simply cannot afford to pick up the difference between the deduction and the total cost of health insurance.

Unfortunately, due to an inequity within our current tax law, big businesses are currently allowed to deduct 100 percent of their health insurance costs. While small businesses are slated to have their health insurance deduction increase to 100 percent in 2003, I believe this is far too long for many small businesses to wait to obtain health insurance.

That is why I am proud to cosponsor the legislation introduced yesterday by Senators BOND and DURBIN, which will finally end the inequity in current tax law and allow small businesses to deduct the same amount of their health insurance costs as big businesses. For many small businesses, this increase in the deduction will make it possible for them to obtain health insurance for the first time.

No one in the United States should be without adequate health care because he or she cannot afford it. Access to affordable health insurance is crucial to increase the quality of life for working families across this nation. That is why we must enact this legislation during the 107th Congress.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to expand the tax deduction for student loan interest. I am proud to have as my original cosponsor Senator MAX BAUCUS of Montana.

Under the Tax Reform Act of 1986, the tax deduction for student loan interest was eliminated. This action, done in the name of fiscal responsibility, disregarded the duty we have to the education of our nation's students. This struck me and many of my colleagues as wrong. Since 1987, I have spearheaded the bipartisan effort to reinstate the tax deduction for student loan interest. In 1992, we succeeded in passing the legislation only to have it vetoed as part of a larger bill with tax increases. Finally, after ten long years our determination and perseverance paid off. Under the Taxpayer Relief Act of 1997 we reinstated the deduction. In our success, we sent a message to the students and their families of this nation that the Congress of the United States understands the financial hardships they face, and that we are willing to assist them in easing those hardships so they can continue to receive

the education they need to become productive members of society and of their place of work.

In 1997, our steps were in the right direction. We did what needed to be done. Regrettably, due to fiscal constraints, we were not able to go as far as we wanted. The nation was still struggling to eliminate the deficit. In order to control costs, we were forced to limit the deductibility of student loan interest to only sixty payments, which is five years' worth plus the time spent in forbearance or deferment.

This restriction hurts some of the most needy borrowers. Many of these borrowers are students who, due to limited means, have borrowed most heavily. The restriction discriminates against those who have the highest debt loads and the lowest incomes. It makes the American dream of self-improvement harder to achieve for those struggling to pull themselves up—but who started with less. It is simply unjust.

Today, our situation is vastly different. In these times of economic surplus, we have a responsibility to do what we were unable to do before. Student debt is rising to alarming levels and additional relief is needed. We must eliminate the sixty month restriction on the deductibility of student loan interest and adjust the income limits to show that the United States Congress stands behind our nation's students in their endeavors to better themselves.

In addition, the removal of the sixty-month limit on deductibility of student loan interest will bring most needed relief to some of the most deserving borrowers. The restriction weighs most heavily on those who, despite lower pay have decided to dedicate themselves to public service. Thus this change will have the added benefit of rewarding civic virtue of these admirable citizens.

Additionally, eliminating this restriction will remove difficult and costly reporting requirements that are currently required for both the borrower and lender. By supporting our nation's students, we will also be reducing costly and unnecessary regulatory requirements.

Currently, to claim the deduction, the taxpayer must have an adjusted gross income of \$40,000 or less or \$60,000 for married couples. The amount of the deduction is gradually phased out for those with incomes between \$40,000 and \$55,000, or \$60,000 and \$75,000 for married couples. The deduction was phased in at \$1,000 and will cap out at \$2,500 in 2002. This bill will adjust those limits.

Many students in our country are suffering from heavy education-related debt. More can and must be done to help them. In these times of relative budget surplus, it is our duty to invest in our students' education. Doing so is an investment in America's future. To

maintain our competitive edge in the global marketplace, America must have a well-educated workforce. By making it easier for students to take out the loans they need to obtain the highest level of education they can, we recommit ourselves to education and maintaining our competitive advantage in technology and in world trade.

I urge members to join me and Senator BAUCUS in our effort to relieve these excessive burdens on those trying to better themselves and their futures through education, by expanding the tax deduction for student loan interest payments. I now ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 152

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.**

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 of the Internal Revenue Code of 1986 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 6050S(e) of such Code is amended by striking “section 221(e)(1)” and inserting “section 221(d)(1)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2000, in taxable years ending after such date.

(b) INCREASE IN INCOME LIMITATION.—

(1) IN GENERAL.—Section 221(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amount of reduction) is amended by striking clauses (i) and (ii) and inserting the following:

“(i) the excess of—

“(I) the taxpayer's modified adjusted gross income for such taxable year, over

“(II) \$50,000 (twice such dollar amount in the case of a joint return), bears to

“(ii) \$15,000.”

(2) CONFORMING AMENDMENT.—Section 221(g)(1) of such Code is amended by striking “\$40,000 and \$60,000 amounts” and inserting “\$50,000 amount”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2000.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator GRASSLEY, in introducing legislation to expand the tax deduction for student loan interest.

Under current law, student loan interest is only deductible for the first sixty loan repayments, which is equivalent to five years in addition to any deferrals. While this limitation was originally imposed due to revenue constraints, it has had unanticipated consequences.

Most importantly, the limitation hurts some of our neediest borrowers. Students with the most limited means

often are forced to borrow most heavily in order to afford a higher education. These are precisely the students who need the most help to succeed.

The restriction also makes it more difficult for students who would like to pursue a career in public service, where loan repayment is made more challenging by salaries that tend to be lower than the private sector. We should not punish those who sacrifice in order to serve the greater good.

Finally, the current sixty month limitation imposes costly and time-consuming reporting requirements on both borrowers and lenders. In supporting our nation's students, we will also be cutting costly bureaucracy.

Mr. President, we currently are enjoying unprecedented budget surpluses, which allows us the luxury of deciding how best to allocate our nation's revenues. I believe there are some priorities we must emphasize, and one important one is our children's education.

Investing in education is investing in our nation's future.

Our best tool for ensuring long-term economic growth is to make sure our workforce is the most educated in the world. Eliminating this artificial restriction on student loan interest deductibility keeps us one small step closer to our goal.

I urge my colleagues to support this effort.

By Mr. HATCH:

S. 153. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the Medicare Program; to the Committee on Finance.

Mr. HATCH. Mr. President, today, I am introducing legislation that will allow all state accredited diabetes education programs to be reimbursed by the Medicare program. Currently, diabetes education programs that have state certification, as an alternative to being certified by the American Diabetes Association (ADA), are not eligible to receive Medicare reimbursement for their services. As a result, these deserving patients have more limited access to the important medical education that they need to control their diabetes effectively and to improve the quality of their health.

This important health issue was brought to my attention by the Program Director of the Utah Diabetes Control Program. There are over 30 diabetes education programs in Utah that are either Utah certified or recognized by the American Diabetes Association. The majority of the education programs have only state certification; several are located in rural communities of Utah.

It is important to emphasize, that in Utah, our state certification program

meets or exceeds all national standards. These stringent state requirements include the submission of a detailed application, with the appropriate documentation that the diabetes education programs meet the various national standards.

The Utah Diabetes Control Program staff also conduct on-site visits to all applying programs. After the completion of this extensive application process, the state staff collects follow-up data through the annual report process in order to assess program quality and diabetic patient outcomes.

One notable concern that has been brought to my attention by the Utah Department of Health is that the American Diabetes Association charges \$850 for state programs to apply for their ADA certification. The smaller and rural state diabetes education programs, which provide services to their patients, have indicated that the ADA fee is cost-prohibitive for them. It does not seem right to me that Medicare reimbursement for such programs is contingent on the ability of the program sponsor to pay a fee to the only accepted certifying entity.

I understand that this problem is not unique to Utah, but is a significant issue across the country. All Medicare beneficiaries, regardless of where they live in America, should have access to these diabetes education programs that ultimately improve the quality of their lives. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 153

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STATE ACCREDITATION OF DIABETES SELF-MANAGEMENT TRAINING PROGRAMS.**

Section 1861(qq)(2) of the Social Security Act (42 U.S.C. 1395x(qq)(2)) is amended—

(1) in the matter preceding subparagraph (A) by striking “paragraph (1)—” and inserting “paragraph (1):”;

(2) in subparagraph (A)—

(A) by striking “a ‘certified provider’” and inserting “A ‘certified provider’”; and

(B) by striking “; and” at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking “a physician, or such other individual” and inserting “(i) A physician, or such other individual”;

(B) by inserting “(I)” before “meets applicable standards”;

(C) by inserting “(II)” before “is recognized”;

(D) by inserting “, or by a program described in clause (ii),” after “recognized by an organization that represents individuals (including individuals under this title) with diabetes”; and

(E) by adding at the end the following new clause:

“(ii) Notwithstanding any reference to ‘a national accreditation body’ in section

1865(b), for purposes of clause (i), a program described in this clause is a program operated by a State for the purposes of accrediting diabetes self-management training programs, if the Secretary determines that such State program has established quality standards that meet or exceed the standards established by the Secretary under clause (i) or the standards originally established by the National Diabetes Advisory Board and subsequently revised as described in clause (i).”.

By Mr. SHELBY:

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

Mr. SHELBY. Mr. President, I rise today to introduce the Military and Overseas Citizens Voting Fairness Act of 2001. This bill ensures that the men and women of the military who go into harm's way and bravely serve our country will have their vote counted. Given the great sacrifice these men and women make to defend our country, it is essential that we as lawmakers do all that we can to have their voices heard.

Although military mail is technically supposed to carry a postmark, the reality of the situation is that exigent circumstances aboard Navy ships and in foreign theaters can result in mail being sent without a postmark. Because several states require a postmark for an absentee ballot to be counted, the unfortunate outcome is that many military persons who went through the timely process of registering, applying for and sending in a ballot are disenfranchised through no fault of their own.

My bill provides that lack of a postmark does not result in automatic rejection of an overseas ballots in states that require a postmark. Specifically, the bill states that as long as there is conclusive proof of timely sending and the ballot is received by a state within 10 days after a federal election, mere lack of a postmark will not prevent the ballot from being counted.

My bill lists two ways in which conclusive proof of timely sending may be established, although any conclusive evidence could establish timely sending. If a ballot is received on or before election day, logic dictates that the ballot was sent in a timely manner. Also, timely sending would be conclusively established by examining the date of signature and witness on the outside of the ballot envelope. Fraudulently misstating the date would be punishable by civil and criminal penalties.

In addition to creating a uniform absentee voting law, my bill includes provisions to allow polling places on domestic military bases. These provisions will make it easier for military personnel located on remote bases to be able to participate in the voting process. Voting is one of the most important civic duties in a democracy. By allowing voting to take place on-base, we as the Senate, will guarantee that the men and women of our military will have every opportunity to exercise their important right to vote.

Mr. President, confidence, clarity, and participation in our voting process are vital to the continuation of our great democracy. The election of this past year illustrates the need for change in our voting procedures. While more reform will be needed, my bill is a crucial step in that direction. For this and all the above reasons, I urge you and all my other colleagues to support the passage of this all important bill.

By Mr. BINGAMAN:

S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that I put forward last year to remove the inequity that continues to exist in retirement pay benefits for critical personnel, referred to as “Dual Status Technicians,” who serve in our National Guard and Reserve. The Senate approved my proposed legislation last year by including it in the FY 2001 Defense Authorization bill. This year, I urge my colleagues in the Senate and House to join with me to see that this important initiative is enacted into law.

There are about 40,000 Dual Status Technicians covered by retirement requirements and restrictions contained in Title 32 of the United States Code. The designation “Dual Status”, Mr. President, refers to the fact that these technicians serve the government simultaneously both as military and civilian employees. These men and women are the backbone of our National Guard and Reserve structure. They are the mechanics, pilots engineers, equipment operators, supply and support technicians who keep things running so that the Guard is able to respond to natural disasters and national emergencies, as well as serve on active duty in accordance with the “total force concept” that integrates active and reserve forces in the military. These hardworking men and women are often the first called to duty in an emergency. They played an essential role, for example, in the major firefighting efforts that took place in New Mexican and throughout western states last summer.

As essential as Dual Status Technicians are, they suffer from the worst of two employment worlds. These technicians are by statute both military and civilian employees. Guard technicians must maintain their military job and grade in order to keep their technician status and remain a federal employee. In the event of separation from military service, however, under existing law they are denied the retirement benefit options extended to those who serve in the same grade and time in service in the active military. Frequently, Dual Status Technicians who are separated from the Guard and Reserve must wait years to qualify to receive their Federal Service retirement benefits.

The bill I am introducing in the Senate today corresponds to a companion bill being introduced on the House side by Representative ABERCROMBIE. It seeks to eliminate retirement inequities—a problem we just addressed head on in the Armed Services Committee when we include a provision in the FY 2000 Defense Authorization Bill eliminating retirement inequities between active duty personnel who retire before or after 1986. We voted by that provision to effectively eliminate the “Redux” retirement benefit program because of the lower benefits it offered to personnel who retired after 1986. The action I am proposing in this legislation is similar.

The bill will permit Dual Status Technicians to retire at any age with 25 years of service or at age 50 with 20 years of service. Those criteria reflect benefit options now extended to Federal police and fire employees. They also replicate those offered to federal employees who retire from the Congress.

Last year, I was pleased to see, Mr. President, that the FY 2000 Defense Authorization Act took a step to extend more equitable retirement benefits to Dual Status Technicians. In doing so, however, the Congress created an inequity within the Technician community itself. A provision in that Act authorized early retirement after 25 years at any age, or at age 50 with 20 years of service—but only for those employed as Dual Status Technicians after 1996. Those same benefits are withheld from those employed before 1996. In other words, Mr. President, we created a situation similar to the one the Senate dealt with regarding the “Redux” retirement program in the FY 2001 Defense Authorization Act. The bill I offer today would remove that inequity in the same way the Congress voted to remove the inequity for active duty personnel who retired under the “Redux” program.

Mr. President, the cost of achieving retirement equity for Dual Status Technicians would not be high. Last year, the Congressional Budget Office estimated that this bill could cost

about \$74 million over a five year period. That estimate may be on the high side, I believe, since it is based on the assumption that nearly all technicians eligible for retirement under those criteria would choose to do so. The actual number who would choose to retire would vary, of course, depending on individual circumstances. It is important to note, Mr. President, that we're not only providing for equity here. We're authorizing appropriate compensation, well deserved, to the men and women who have devoted their careers to service for the nation both at home and abroad—the men and women of our National Guard and Reserve.

I urge my colleagues to support this bill and urge my fellow members to support this effort through cosponsorship. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 155

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.**

(a) **TECHNICIANS COVERED BY FERS.**—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking “after becoming 50 years of age and completing 25 years of service” and inserting “after completing 25 years of service or after becoming 50 years of age and completing 20 years of service”.

(b) **TECHNICIANS COVERED BY CSRS.**—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(p) Section 8414(c) of this title applies—

“(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

“(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.”.

(c) **APPLICABILITY.**—Subsection (c) of section 8414 of title 5, United States Code (as amended by subsection (a)), and subsection (p) of section 8336 of such title (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

By Mrs BOXER:

S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year

of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, there have been many positive steps taken to support quality early education and afterschool programs, yet they still represent token steps when giant leaps are needed. America must commit to ensuring a comprehensive education system beginning with early education programs and continuing with afterschool programs. This is why I am reintroducing my two bills, the “Early Education Act of 2001,” and the “After School Education and Anti-Crime Act of 2001.”

Every day, millions of working parents are forced with the prospect of leaving their children unsupervised after school because they either cannot afford quality afterschool programs or the programs simply are unavailable in their surrounding area. Children need a place to go after school. An empty house should not be an option. It can be especially frightening for many students today because of the increase in crime and drug related incidents in their neighborhoods.

There are anywhere from 8 to 15 million children without accessible afterschool opportunities. Only 33 percent of schools in low-income neighborhoods offer before and afterschool programs compared to over 50 percent of schools in affluent neighborhoods. Yet, unlike what most may believe, this tragic situation cuts across both racial and economic lines. Affluent, non-minority workers also leave their children home alone.

According to a recent report from the Urban Institute, one in five children ages 6 to 12 are regularly left without adult supervision after school. The FBI reports that the after school hours between 2 p.m. and 8 p.m. are the times when latchkey children are most likely to be involved in crimes and other delinquent behavior, and this is precisely the time period when juvenile crime peaks across the nation.

According to the Departments of Education and Health and Human Services, extracurricular activities, like those provided by afterschool programs, have proven to reduce the number of students likely to use drugs by 50 percent and the number of students likely to become teen parents by 33 percent. Statistics like these prove that after school programs are essential to ensuring the safety of our children in the critical hours after school.

We made great progress in the last 5 years. Through the 21st Century Community Learning Center program, federal support for local afterschool programs increased from \$1 million in fiscal year 1997 to \$845 million in fiscal year 2001. As a result, over 900 communities across the nation are now providing their children with a positive alternative to unsupervised care.

But a gap still exists. While eight out of ten voters in America indicate they strongly support afterschool programs and would welcome them in their community, fewer than 4 out of 10 voters say that their community provides afterschool programs.

My bill, the After Education and Anti-Crime Act of 2001, would help close this gap. It would provide \$1 billion in grants for afterschool programs and incrementally increase that funding over the next five years to \$1.5 billion in the year 2006. This funding would help provide afterschool programs for 1.5 million youth in the year 2002 with the potential to assist nearly 2.5 million in the year 2006.

While afterschool programs continue the learning process during after school hours, we also must support initiatives that ensure our young children receive quality educational experiences in their early, formative years.

In 1989, the Nation's governors established a goal that all children would have access to high quality prekindergarten programs by the year 2000. It is now the year 2001, and this goal still has not been met.

Importantly, researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that pre-kindergarten educational opportunities are necessary if children are going to develop the language and literacy skills needed to read.

Furthermore, studies have shown that children who participate in pre-kindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and more likely to have good attendance records. Yet, of the nearly 8 million 3- and 4-year-olds that could be in early education, fewer than half are enrolled.

My bill, the Early Education Act of 2001, would create a demonstration project in at least 10 States that want to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requirement, and the \$300 million authorized under this bill would be used by States to supplement—not supplant—other Federal, State or local funds.

Our children need a solid foundation that builds on our current education system by providing them with early learning skills and the opportunity to further develop these skills during the afterschool hours. My bills will help create such a positive environment for our Nation's youth.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to re-introduce legislation that I first introduced in 1999. This bill will establish much needed accountability for our education system so that the taxpayers' investment in education is adequately protected and our children receive the best possible education. I am pleased to offer this bipartisan bill on behalf of myself and my colleague Senator LUGAR. The provisions of this bill are also included in S. 7, introduced yesterday by Senator DASCHLE and 18 other senators.

I think that we can all agree that greater accountability in our public schools is an imperative. I am encouraged that President Bush and our new Secretary of Education, Rod Paige, have both expressed a strong commitment to increased accountability and have implemented strong school accountability standards in Texas. I understand accountability is a central piece of the administration's proposal being released today.

In 1994, we made some important changes to the Elementary and Secondary Education Act. We created an accountability system for the program receiving most of the ESEA funds—the program, for disadvantaged students called the Title I program. This accountability framework—along with the Goals 2000 program—have driven the standards-based reform efforts across the nation. During the last 5 years, however, experience in many States has demonstrated that we must do more. At this point, only 11 states have fully approved assessment systems in place as required under Title I.

The federal government has succeeded in targeting funds on those most in need better than any state or local government. And over the last three decades we have had success—albeit only partial success—in closing the achievement gap between economically disadvantaged students and their peers.

Our bill builds on the existing strengths of the accountability structure in the current Title I programs and also establishes accountability for teacher quality and other federal education programs encompassed in the Elementary and Secondary Education Act. In particular, our bill (1) establishes aggressive but achievable performance objectives for all students linked to each state's own standards and assessments; (2) directs resources to the students and objectives most in need and (3) provides maximum flexibility for educators in devising strategies that meet our shared goals, but ultimately having real consequences and sanctions for states, districts, and schools that do not meet agreed-upon performance objectives for student achievement.

Through amendments to Title I and Title VI of the Elementary and Secondary Education Act, our bill estab-

lishes aggressive but achievable performance objectives for all students.

We require rigorous statewide accountability systems based on each state's standards and assessments holding states, districts, and schools accountable for real achievement progress for all students, by requiring states, districts and schools to set specific, numerical goals for improvement which will ensure that all students will be proficient on state standards within 10 years. We also require public reporting of not just the results of the assessment but also the number of students excluded from assessments.

Most importantly, Mr. President, this bill demands results for all students, by no longer tolerating existing achievement gaps between minority and non-minority students, poor and non-poor students, and LEP and English-speaking students. The achievement gap between low-income students and their more advantaged peers has narrowed significantly from 1970 until the mid-1980's. This was a central goal of the Title I program and its success in this regard is underrated.

But we have not done enough to accelerate those results. Accountability systems that depend upon average student achievement data—data in the aggregate—will not close the achievement gaps that separate low-income students from more affluent students or minority students from white students.

For example, in my home State of New Mexico, in 1994 4th grade reading data show that an average of 21 percent of the 4th graders in my state were reading at the proficient level. This is distressing enough, but the disaggregated data tells an even more depressing story. In New Mexico only 11 percent of the African American 4th graders and just 15 percent of the Latino 4th graders were reading at the proficient level. The 1996 4th grade NAEP data show that 13 percent of all students in New Mexico were proficient in math while only 3 percent of African American students and 6 percent of Latino students were proficient.

The fact that these students are in the minority means that their performance data is swamped by data of the majority when an accountability system that depends on averages is used.

To remedy this—to close the gaps and to make good on the promises of Title I—our bill would demand that states use disaggregated data and goals to hold schools and school districts accountable for the use of Title I funds.

Mr. President, recognizing that increased accountability and increased results will not be easy to accomplish, our bill also directs additional resources to the students and objectives most in need.

First, our bill would set aside a pot of funds (3 percent of Title I funds—about \$250 million at current funding levels—

and 5 percent after three years) for school improvement. 80 percent of these funds would be sent to the local level to support efforts to turn around failing schools. Schools can use these funds to implement research-based comprehensive school reform programs.

An example of a comprehensive school reform model used widely in my State and throughout the nation with great results is Success for All. This program is a proven early grade reading program, which if implemented properly can ensure results. At the end of the first grade, Success for All schools have average reading scores almost three months ahead of those in matching control schools, and by the end of the 5th grade, students read more than one year ahead of control peers. The program can reduce the need for special education placements by more than 50 percent and virtually eliminate retention. Our bill provides new funding of \$500 million per year to states and school districts to implement comprehensive, research-based school reform programs, such as Success for All, that have proven effectiveness.

Second, the state may use the remaining State funds to provide assistance to districts and schools as they implement their accountability system and develop school improvement plans.

Finally, we also support an increased authorization level for Title I—\$15 billion—and will continue to fight for substantial increases in the appropriations process.

Mr. President, the bill does not provide additional resources without asking for something in return. The bill would ensure that if states, districts or schools fail to demonstrate returns on the federal investment through increased student performance, real consequences and sanctions will result.

On the school and district level, if grant recipients do not meet required performance standards, changes in the governance structure of the school or district must be implemented; and students must be allowed to transfer to higher performing schools. The states and districts must provide the necessary resources for transportation with state and local funds; state administrative funds will be withheld; and Title VI funding (current block grant program) will be reduced and States will be ineligible for the Ed-Flex program.

This bill also would establish aggressive but achievable performance objectives to ensure that every class has a qualified teacher. Our bill does this by first, requiring states receiving federal funds to ensure that all teachers are fully qualified by December 2005; second, requiring states and districts receiving federal teacher quality funds to set specific numerical performance goals and targets for reducing the num-

ber of unqualified and out-of-field teachers; and third, ensuring that low income and minority students are not taught by unqualified teachers at higher rates than other students.

The bill would ensure that resources are directed to these objectives first, by ensuring that federal funds are not used to hire unqualified teachers and second, by ensuring that resources are provided for, and school improvement plans incorporate, high-quality, research-based professional development for instructional staff.

Again, in exchange for increased resources, our bill would provide consequences for failing to meet performance objectives. States failing to meet their performance objectives would lose State administrative funding. Districts and schools failing to meet performance objectives would be ineligible for continuing grants.

This bill also ensures that the other Federal Education Programs in the ESEA incorporate performance-based accountability measures by: First, requiring that all plans submitted with grant applications incorporate performance-based objectives for increased student performance or other relevant program objectives. Second, providing additional funding through the Title VI block grant program in the ESEA to achieve performance-based objectives. Third, providing consequences for failing to meet performance-based objectives, including ineligibility for continuing grants in the case of competitive programs and in the case of formula programs, reductions in administrative funds and Title VI, and fourth, mandating that states failing to meet goals would also be ineligible for flexible funding programs in current law ("Ed Flex").

In addition, this bill recognizes the critical role played by parents in improving performance and ensuring accountability. The bill provides parents the right to know their child's teachers' qualifications; it requires that parents be notified when their child's school is failing; it requires school improvement plans be published and parents be included in their development; and it requires school report cards to inform parents about the quality of their schools and their programs in meeting student achievement goals.

Finally, our bill authorizes \$200 million dollars for States to reward high performing schools and districts so that these schools and districts are recognized and encouraged to strive for high performance.

Mr. President, our bill would use an output-based rather than an input-based system of accountability for the various programs authorized by this bill. A shift that my colleagues on the both sides of the aisle have repeatedly endorsed.

Indeed, Both President Bush and Secretary Paige have expressed support for

the measures incorporated in this bill and implemented many of them with some success in Texas. Both have endorsed closing the achievement gap at the school level with real consequences for failure—the key component for accountability under Title I. They have indicated support for report cards, a rewards program for successful schools, and using performance-based accountability for all education programs. At his confirmation hearing, Secretary Paige also endorsed providing additional resources to struggling schools to help them turn around before corrective actions are taken. So I am very hopeful that this will be a bill that receives strong bipartisan support and I look forward to working with my colleagues on both sides of the aisle on it.

In conclusion, Mr. President, many schools that educate hard-to-serve students have shown success by setting high standards for staff and students and mobilizing educators and the community around a clear set of educational goals.

In fact, there are successful schools all over the country, in every type of community, that are living proof that all children have the ability to achieve beyond our wildest expectations, no matter what their economic or social background.

Success is not yet the rule in all of our schools. Our job, in this Congress, is to support parents and educators in every community as they apply these lessons and leverage federal funds so that they create change in areas where success continues to lag. We know what works. Now we must dedicate the resources needed to apply what works and hold the system accountable for real results. Again, I want to thank my colleague, Senator LUGAR, for his co-sponsorship of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 158

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "School Improvement Accountability Act".

#### **TITLE I—HELPING DISADVANTAGED CHILDREN**

##### **SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.**

Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended to read as follows:

##### **"SEC. 1003. RESERVATION FOR ACCOUNTABILITY AND SCHOOL IMPROVEMENT.**

**"(a) STATE RESERVATION.—**

**"(1) IN GENERAL.—**Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its



statewide system of technical assistance and providing support for local educational agencies.

“(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall allocate at least 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies, and agencies serving schools, identified for corrective action or improvement under section 1116(c).

“(3) USE OF FUNDS.—Each local educational agency receiving an allotment under paragraph (2) shall use the allotment to—

“(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

“(B) achieve substantial improvement in the performance of those schools.

“(b) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.30 percent to conduct evaluations and studies and to collect data.

#### SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking “AND ASSESSMENTS” and inserting “, ASSESSMENTS, AND ACCOUNTABILITY”;

(2) by amending paragraph (2) to read as follows:

“(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State’s accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

“(B) The specification of adequate yearly progress in the State plan for schools—

“(i) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3);

“(ii) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this section within 10 years after the effective date of the School Improvement Accountability Act;

“(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the inclusion of such indicators shall not decrease the number of schools or local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

“(iv) shall compare separately data for the State as a whole, for each local educational agency, and for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such disaggregation shall not be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results

would reveal individually identifiable information about individual students); and

“(v) shall compare the proportion of students at the basic, proficient, and advanced levels of performance in a grade for a year with the proportion of students at each of the 3 levels in the same grade in the previous year.

“(C)(i) Adequate yearly progress for a local educational agency shall be based upon both—

“(I) the number or percentage of schools identified for school improvement or corrective action; and

“(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

“(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

“(D)(i) Adequate yearly progress for a State shall be based upon both—

“(I) the number or percentage of local educational agencies identified for improvement or corrective action; and

“(II) the progress of the State in reducing the number or length of time local educational agencies are identified for improvement or corrective action.

“(ii) The State plan shall provide that the State shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are greater than the State average of such concentrations shall not be less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.”;

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “developed or adopted” and inserting “in place”; and

(ii) by inserting “, not later than the school year 2000–2001,” after “will be used”;

(B) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J);

(C) in subparagraph (F)—

(i) in clause (ii), by striking “and” after the semicolon; and

(ii) by adding at the end the following:

“(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

“(v) notwithstanding clauses (iii) and (iv), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the

United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability;”;

(D) by inserting after subparagraph (F) the following:

“(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student.”; and

(E) by amending subparagraph (I) (as so redesignated) to read as follows:

“(I) provide individual student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning such as measures of student coursework over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and”;

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

(6) by inserting after paragraph (3) the following:

“(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers and percentages of all students, including the lowest performing students, economically disadvantaged students, and students with limited proficiency in English, who meet the State’s proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

“(i) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

“(ii) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

“(iii) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).

“(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

“(i) complies with sections 1116 and 1117, including the provision of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

“(ii) includes rigorous criteria for identifying those agencies and schools based upon

failure to make adequate yearly progress in student achievement in accordance with paragraph (2).

“(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—

“(A) in developing the State plan provisions relating to adequate yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

“(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, and is provided in a widely read or distributed medium.

“(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State’s consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement and corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

“(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance standards and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

“(B)(i) The State plan shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

“(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than  $\frac{1}{4}$  of the funds made available under this part for administrative expenses for the fiscal year.

“(C) The State plan shall provide that, if the State has not developed challenging State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments.”; and

(7) by adding at the end the following:

“(12) SCHOOL REPORTS.—The State plan shall provide that individual school reports publicized and disseminated under section 1116(a)(2) shall include information on the total number of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with paragraph (3)(J), and shall include information on why such students were excluded from the assessment. In issuing this report, a local educational agency may not provide any information that would violate the privacy or reveal the identity of any individual student.”.

(b) ASSURANCES.—Section 1112(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(c)(1)) is amended—

(1) in subparagraph (G), by striking “; and” and inserting a semicolon;

(2) in subparagraph (H), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(I) ensure, through incentives for voluntary transfers, the provision of professional development, and recruitment programs, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers.”.

(c) ASSESSMENT AND IMPROVEMENT.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317) is amended—

(1) by amending subsection (a) to read as follows:

“(a) STATE AND LOCAL REVIEW.—

“(1) IN GENERAL.—Each local educational agency receiving funds under this part shall use the State assessments and other academic indicators described in the State plan or in a State-approved local educational agency plan to review annually the progress of each school served under this part by the agency to determine whether the school is making the adequate yearly progress specified in section 1111(b)(2) toward enabling all students to meet the State’s student performance standards described in the State plan.

“(2) PUBLICATION AND DISSEMINATION; RESULTS.—Each local educational agency receiving funds under this part shall—

“(A) publicize and disseminate in individual school reports that include statistically sound results disaggregated in the same manner as results are disaggregated under section 1111(b)(3)(J), to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (1) and (if not already included in the review), graduation rates, attendance rates, retention rates, and rates of participation in advanced level courses, for all schools served under this part; and

“(B) provide the results of the annual review to schools served by the agency under this part so that the schools can continually refine their programs of instruction to help all students served under this part in those schools to meet the State’s student performance standards.”;

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

“(i) for 2 consecutive years failed to make adequate yearly progress as defined in the State’s plan under section 1111, except that in the case of a school participating in a targeted assistance program under section 1115, a local educational agency may review the

progress of only those students in such school who are served under this part; or

“(ii) was identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

“(B) The 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which a school did not make adequate yearly progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of enactment.”;

(B) by amending paragraph (2) to read as follows:

“(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

“(I) the reasons for such identification; and

“(II) information about opportunities for parents to participate in the school improvement process.

“(ii) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

“(B)(i) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the school that the agency proposes to identify the school for school improvement and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding identification is based.

“(ii) If the school believes that the proposed identification is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

“(iii) The review period under this subparagraph shall not exceed 30 days. At the end of the period, the agency shall make public a final determination regarding identification of the school.

“(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

“(i) addresses the fundamental teaching and learning needs in the school;

“(ii) describes the specific achievement problems to be solved;

“(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State’s student performance standards;

“(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

“(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

“(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a



minimum of 10 percent of the funds received by the school under this part on professional development that—

“(I) does not supplant professional development services that the instructional staff would otherwise receive; and

“(II) is designed to increase the content knowledge of teachers, build teachers’ capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels of performance;

“(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

“(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school’s obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

“(D)(i) The school shall submit the plan (including a revised plan) to the local educational agency for approval.

“(ii) The local educational agency shall promptly subject the plan to a peer review process, work with the school to revise the plan as necessary, and approve the plan.

“(iii) The school shall implement the plan as soon as the plan is approved.”;

(C) by amending paragraph (4) to read as follows:

“(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school’s plan.

“(B) Such technical assistance—

“(i) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

“(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in section 1118, implementing the professional development provisions in section 1119, and carrying out the responsibilities of the school and local educational agency under the plan; and

“(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency’s approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 207 of the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

“(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.”;

(D) by amending paragraph (5) to read as follows:

“(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

“(A) In this paragraph, the term ‘corrective action’ means action, consistent with State and local law, that—

“(i) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

“(ii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

“(B) After providing technical assistance under paragraph (4), the local educational agency—

“(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A);

“(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school’s identification under paragraph (1)(A), at the end of the second year; and

“(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

“(C) In the case of a school described in subparagraph (B)(ii), the local educational agency—

(i) shall take corrective action that changes the school’s administration or governance by—

(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as the creation of a public charter school);

(III) redesigning the school by reconstituting all or part of the school staff;

(IV) eliminating the use of noncredentialed teachers; or

(V) closing the school;

(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving student educational achievement and is directly related to the content area in which each teacher is providing instruction and the State’s content and performance standards in that content area; and

(iii) may defer, reduce, or withhold funds provided to carry out this title.

“(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

“(I) Such transfer must be consistent with State or local law.

“(II) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

“(III) The local educational agency may use not more than 10 percent of the funds the local educational agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

“(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

“(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

“(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

“(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding corrective action is based.

“(ii) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

“(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action for the school.”;

(E) by amending paragraph (6) to read as follows:

“(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section.”;

(F) by amending paragraph (7) to read as follows:

“(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such

school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school's improvement plan."'; and

(3) by amending subsection (d) to read as follows:

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

"(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

"(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

"(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

"(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.

"(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served under this part.

"(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

"(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

"(C) The review period under this paragraph shall not exceed 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

"(6) NOTIFICATION TO PARENTS.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

(i) the reasons for the agency's identification; and

(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

"(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

"(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

"(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students within the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

"(C) The plan shall—

"(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including stating a determination of why the local educational agency's prior plan, if any, failed to bring about increased achievement;

"(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

"(iii) identify specific annual academic achievement goals and objectives that will—

"(I) have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards; and

"(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(B)(iv);

"(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds received by the schools under this part on professional development that—

"(I) does not supplant professional development services that the instructional staff would otherwise receive; and

"(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

"(v) identify measures the local educational agency will undertake to make adequate yearly progress;

"(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language the parents can understand;

"(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

"(viii) include strategies to promote effective parental involvement in the schools.

"(D) The local educational agency shall submit the plan (including a revised plan) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to a peer review process, work with the local educational agency to revise the plan as necessary, and approve the plan.

"(E) The local educational agency shall implement the plan (including a revised plan) as soon as the plan is approved.

"(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agen-

cy identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

"(i) to develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

"(ii) to work with schools identified for improvement.

"(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

"(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State educational agency shall implement a system of corrective action in accordance with the following:

"(A) In this paragraph, the term 'corrective action' means action, consistent with State law, that—

"(i) substantially and directly responds to the consistent academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

"(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

"(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

"(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

"(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

"(i) Withholding funds from the local educational agency.

"(ii) Reconstituting school district personnel.

"(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

"(iv) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

"(v) Abolishing or restructuring the local educational agency.

"(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(ii), the State educational agency shall provide all students enrolled in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

“(i) The provision of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

“(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

“(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under this subparagraph.

“(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

“(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

“(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

“(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency's improvement plan.”

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6318(a)) is amended to read as follows:

“(a) SYSTEM FOR SUPPORT.—

“(1) IN GENERAL.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's content standards and student performance standards.

“(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

“(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

“(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116; and

“(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty

equals or exceeds 75 percent of the total number of students enrolled in such school.

“(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall provide technical assistance and support through approaches such as—

“(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

“(B) the designation and use of ‘Distinguished Educators’, chosen from schools served under this part that have been especially successful in improving academic achievement;

“(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

“(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

“(4) FUNDS.—Each State educational agency—

“(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

“(B) may use State administrative funds authorized for such purpose.

“(5) ALTERNATIVES.—The State educational agency may devise additional approaches to providing the assistance described in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.”

(e) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking “paragraph (6)” and inserting “paragraph (10)”;

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking “section 1116(c)(4)” and inserting “section 1116(c)(5)”;

(3) in section 1117(c)(2)(A) (20 U.S.C. 6318(c)(2)(A)), by striking “section 1111(b)(2)(A)(i)” and inserting “section 1111(b)(2)(A)”;

(4) in section 1118(c)(4)(B) (20 U.S.C. 6319(c)(4)(B)), by striking “school performance profiles required under section 1116(a)(3)” and inserting “individual school reports required under section 1116(a)(2)(A)”;

(5) in section 1118(e)(1) (20 U.S.C. 6319(e)(1)), by striking “section 1111(b)(8)” and inserting “section 1111(b)(11)”;

(6) in section 1119(h)(3) (20 U.S.C. 6320(h)(3)), by striking “section 1116(d)(6)” and inserting “section 1116(d)(9)”.

#### SEC. 103. COMPREHENSIVE SCHOOL REFORM.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

#### “PART F—COMPREHENSIVE SCHOOL REFORM

##### “SEC. 1551. PURPOSE.

“The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that emphasize basic academics and parental involvement so that

all children can meet challenging State content and student performance standards.

#### “SEC. 1552. PROGRAM AUTHORIZATION.

“(a) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

“(2) ALLOTMENTS.—

“(A) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

“(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

“(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

“(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

“(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallocate such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

#### “SEC. 1553. STATE APPLICATIONS.

“(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTENTS.—Each such application shall describe—

“(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

“(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

“(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

“(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

“(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

#### “SEC. 1554. STATE USE OF FUNDS.

“(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

“(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency shall be—

“(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

“(2) in an amount not less than \$50,000 for each participating school; and

“(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

“(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

“(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

“(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

“(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

“(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

“(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

“(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

#### “SEC. 1555. LOCAL APPLICATIONS.

“(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

“(b) CONTENTS.—Each such application shall—

“(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

“(2) describe the promising and effective practices and research-based programs that such schools will implement;

“(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

“(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

#### “SEC. 1556. LOCAL USE OF FUNDS.

“(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

“(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

“(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

“(3) providing high quality and continuous teacher and staff professional development;

“(4) including measurable goals for student performance;

“(5) providing support to teachers, principals, administrators, and other school personnel staff;

“(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

“(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

“(8) evaluating school reform implementation and student performance; and

“(9) identifying other resources, including Federal, State, local, and private resources, that will be used to coordinate services supporting and sustaining the school reform effort.

“(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

#### “SEC. 1557. NATIONAL EVALUATION AND REPORTS.

“(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

“(b) EVALUATION.—The national evaluation shall—

“(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

“(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

“(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations, of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

#### “SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part \$500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.”

#### TITLE II—TEACHERS

##### SEC. 201. STATE APPLICATIONS.

(a) CONTENTS OF STATE PLAN.—Section 2205(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

“(N) set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;”;

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

“(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than December 1, 2005; and”.

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II of the Elementary and Secondary Education Act (20 U.S.C. 6641 et seq.) is amended—

(1) by redesignating section 2211 as section 2215;

(2) by inserting after section 2210 the following:

##### “SEC. 2211. LOCAL CONTINUATION OF FUNDING.

“(a) AGENCIES.—If a local educational agency applies for funds from a State under this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the agency has demonstrated that, in carrying out activities under this part during the past fiscal year, the agency has annual numerical performance objectives consisting of—

“(1) improved student performance for all groups identified in section 1111;

“(2) an increased percentage of teachers participating in sustained professional development activities;

“(3) a reduction in the beginning teacher attrition rate for the agency; and

“(4) a reduction in the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers, for the agency.

“(b) SCHOOLS.—If a local educational agency applies for funds under this part on behalf of a school for a fourth or subsequent fiscal year (including applying for funds as part of a partnership), the agency may not receive the funds for the school for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

##### “SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

“(a) PARENTS' RIGHT TO KNOW INFORMATION.—

“(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending any school served by the agency, information regarding the professional qualifications of each of the student's classroom teachers.

“(2) CONTENTS.—The agency shall provide, at a minimum, information on—

“(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

“(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

“(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.

“(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

#### “SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

“Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States’ compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

#### “SEC. 2214. DEFINITION OF FULLY QUALIFIED.

“(a) IN GENERAL.—In this part, the term ‘fully qualified’, used with respect to a teacher, means a teacher who—

“(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

“(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

“(2) meets the standards set by the National Board for Professional Teaching Standards.

“(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor’s degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

“(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor’s degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

“(A) achievement of a high level of performance on rigorous academic subject area tests;

“(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

“(C) in the case of teachers hired before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches.”; and

(3) by amending section 2215 (as so redesignated)—

(A) in subsection (a)(3), by adding after “agency” the following: “for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act”; and

(B) by inserting after subsection (a)(4) the following:

“(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.”.

(c) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2203(2) (20 U.S.C. 6643(2)), by striking “section 2211” and inserting “section 2215”; and

(2) in section 2205(c)(2) (20 U.S.C. 6645(c)(2)), by striking “section 2211” and inserting “section 2215”.

### TITLE III—INNOVATIVE EDUCATION

#### SEC. 301. REQUIREMENTS FOR STATE PLANS.

Part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7331 et seq.) is amended by adding at the end the following:

#### “SEC. 6203. REQUIREMENTS FOR STATE PLANS.

“(a) STATE PLANS.—In addition to requirements relating to State applications under this part, the State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(b) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State application described in section 6202.

“(c) CONTENTS.—Each plan submitted under subsection (a) shall—

“(1) describe how the funds made available through the grant will be used to increase student academic performance;

“(2) describe annual, quantifiable, and measurable performance goals that will be used to measure the impact of those funds on student performance;

“(3) describe the methods the State will use to measure the annual impact of programs described in the plan and the extent to which such goals are aligned with State standards;

“(4) certify that the State has in place the standards and assessments required under section 1111;

“(5) certify that the State educational agency has a system, as required under section 1111, for—

“(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

“(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

“(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

“(D) providing technical assistance, professional development, and other capacity building as needed to get such agencies and schools out of improvement status;

“(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators available, to review annually the progress of each local educational agency and school served under this title to determine whether each such agency and school is making adequate yearly progress as required under section 1111(b)(2);

“(7) certify that the State educational agency will take action against a local educational agency that is identified for corrective action and receiving funds under this title;

“(8) describe what, if any, State and other non-Federal resources will be provided to local educational agencies and schools served under this title to carry out activities consistent with this title; and

“(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

“(d) APPROVAL.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

“(e) DURATION OF THE PLAN.—Each State plan shall remain in effect for the duration of the State’s participation under this title.

“(f) REQUIREMENT.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

“(g) PUBLIC REVIEW.—Each State educational agency will make publicly available the plan approved under subsection (d).

#### “SEC. 6204. SANCTIONS.

“(a) THIRD FISCAL YEAR.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

“(b) FOURTH FISCAL YEAR.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

“(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

#### “(d) LOCAL SANCTIONS.—

“(1) IN GENERAL.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

“(2) SANCTIONS.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

#### “SEC. 6205. STATE REPORTS.

“Each State educational agency or Chief Executive Officer of a State receiving funds

under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

- “(1) the use of such funds;
- “(2) the impact of programs conducted with such funds and an assessment of such programs’ effectiveness; and
- “(3) the progress of the State toward attaining the performance goals established under section 6203(c)(2), and the extent to which the programs have increased student achievement.

**“SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.**

“Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6201(a)(1)(C), to—

- “(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;
- “(2) provide for the establishment of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or
- “(3) develop and implement value-added assessments.”

**SEC. 302. PERFORMANCE OBJECTIVES.**

Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended by inserting after section 7105 the following:

**“SEC. 7106. PERFORMANCE OBJECTIVES.**

“(a) IN GENERAL.—Each State educational agency or local educational agency receiving a grant under this part shall develop annual numerical performance objectives that are age-appropriate and developmentally-appropriate with respect to helping limited English proficient students become proficient in English and improve overall academic performance based upon State and local content and performance standards. The objectives shall include incremental percentage increases for each fiscal year a State educational agency or local educational agency receives a grant under this title, including increases from the preceding fiscal year in the number of limited English proficient students demonstrating an increase in performance on annual assessments concerning reading, writing, speaking, and listening comprehension.

“(b) ACCOUNTABILITY.—Each State educational agency or local educational agency receiving a grant under this title shall be held accountable for meeting the annual numerical performance objectives under this title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 14515.

**“(c) PARENTAL NOTIFICATION.—**

“(1) IN GENERAL.—Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program under this title, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

“(A) the student’s level of English proficiency, how such level was assessed, the status of the student’s academic achievement, and the implications of the student’s educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

“(B) what programs are available to meet the student’s educational strengths and

needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such available programs meet the objectives of the individualized education program of such a student; and

“(C) the instructional goals of the language instruction educational program, and how the program will specifically help the limited English proficient student learn English and meet State and local content and performance standards, including—

“(i) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

“(ii) the reasons the student was identified as being in need of a language instruction educational program.

“(2) OPTION TO DECLINE.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of a student in a language instruction educational program, and shall be given an opportunity to decline such enrollment if the parent so chooses.

“(3) SPECIAL RULE.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.”

**SEC. 303. REPORT CARDS.**

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

**“PART I—REPORT CARDS**

**“SEC. 14901. REPORT CARDS.**

“(a) GRANTS AUTHORIZED.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State report card meeting the requirements described in subsection (e), to enable the State, and local educational agencies and schools in the State, annually to publish report cards for each elementary school and secondary school that receives funding under this Act and is served by the State.

**“(b) RESERVATIONS AND ALLOTMENTS.—**

“(1) RESERVATIONS.—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall reserve—

“(A)  $\frac{1}{2}$  of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

“(B)  $\frac{1}{2}$  of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

“(2) STATE ALLOTMENTS.—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

“(c) STATE RESERVATION OF FUNDS.—Each State educational agency receiving a grant under subsection (a) may reserve—

“(1) not more than 10 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

“(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

“(d) WITHIN-STATE ALLOCATIONS.—Each State educational agency receiving a grant under subsection (a) shall allocate the grant funds that remain after making the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by local educational agencies within the State.

**“(e) ANNUAL STATE REPORT CARD.—**

“(1) REPORT CARDS REQUIRED.—Not later than the beginning of the 2002-2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for parents, the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

“(2) REQUIRED INFORMATION.—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information regarding—

“(A) student performance on statewide assessments for the year for which the annual State report card is prepared and the preceding year, in at least English language arts and mathematics, including—

“(i) a comparison of the proportions of students who performed at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions in each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

“(ii) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I; and

“(iii) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

“(B) student retention rates in each grade, the number of students completing advanced placement courses, annual school dropout rates as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data, and 4-year graduation rates; and

“(C) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional credentials, the percentage of class sections not taught by fully qualified teachers, and the percentage of teachers who are fully qualified.

“(3) STUDENT DATA.—Student data in each report card shall contain disaggregated results for the following categories:

“(A) Racial and ethnic groups.

“(B) Gender groups.

“(C) Economically disadvantaged students, as compared with students who are not economically disadvantaged.

“(D) Students with limited English proficiency, as compared with students who are proficient in English.

“(E) Migrant status groups.

“(F) Students with disabilities, as compared with students who are not disabled.

“(4) OPTIONAL INFORMATION.—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

“(A) Average class size.

“(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

“(C) The incidence of student suspensions and expulsions.

“(D) Student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

“(E) Parental involvement, as determined by such measures as the extent of parental participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

“(f) LOCAL EDUCATIONAL AGENCY AND SCHOOL REPORT CARDS.—

“(1) IN GENERAL.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

“(2) REQUIRED INFORMATION.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

“(A) the information described in paragraphs (2) and (3) of subsection (e) for each local educational agency and school;

“(B) in the case of a local educational agency—

“(i) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

“(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

“(iii) information on how students in the schools served by the local educational agency performed on the statewide assessment compared with students in the State as a whole;

“(C) in the case of an elementary school or a secondary school—

“(i) information regarding whether the school has been identified for school improvement;

“(ii) information on how the school's students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

“(iii) information about the enrollment of students compared with the rated capacity of the schools; and

“(D) other appropriate information, regardless of whether the information is included in the annual State report.

“(g) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS.—

“(1) REPORT CARD FORMAT.—Annual report cards under this part shall be—

“(A) concise; and

“(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

“(2) STATE REPORT CARDS.—State annual report cards under subsection (e) shall be dis-

seminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(3) LOCAL REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(4) SCHOOL REPORT CARDS.—Elementary school and secondary school report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(h) COORDINATION OF STATE PLAN CONTENT.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

“(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part \$5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

#### “PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

##### “SEC. 14911. REWARDING HIGH PERFORMANCE.

“(a) STATE REWARDS.—

“(1) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

“(A) for 3 consecutive years have—

“(i) exceeded the State performance goals and objectives established for any title under this Act;

“(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

“(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

“(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

“(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

“(B) by not later than fiscal year 2005, ensure that all teachers teaching in the State public elementary schools and secondary schools are fully qualified.

“(2) STATE USE OF FUNDS.—

“(A) DEMONSTRATION SITES.—Each State receiving an award under paragraph (1) shall use a portion of the award funds that are not distributed under subsection (b) to establish demonstration sites with respect to high-performing schools (based upon achievement, or performance levels and adequate yearly progress) in order to help low-performing schools.

“(B) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall use the portion of the award funds that are not used pursuant to subparagraph (A) or (C) and are not distributed under subsection

(b) for the purpose of improving the level of performance of all elementary school and secondary school students in the State, based upon State content and performance standards.

“(C) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each State receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to local educational agencies.

“(b) LOCAL EDUCATIONAL AGENCY AWARDS.—

“(1) IN GENERAL.—Each State receiving an award under subsection (a)(1) shall distribute 80 percent of the award funds to local educational agencies in the State that—

“(A) for 3 consecutive years have—

“(i) exceeded the State-established local educational agency performance goals and objectives established for any title under this Act;

“(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

“(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

“(iv) raised all students enrolled in schools served by the local educational agency to the proficient standard level prior to 10 years from the date of enactment of the School Improvement Accountability Act; or

“(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I;

“(B) not later than December 31, 2005, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

“(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

“(2) SCHOOL-BASED PERFORMANCE AWARDS.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

“(3) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to eligible elementary schools and secondary schools, teachers, and principals.

“(c) SCHOOL REWARDS.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

“(1) to reward individual schools that demonstrate high performance with respect to—

“(A) increasing the academic achievement of all students;

“(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

“(C) improving teacher quality;

“(D) increasing high-quality professional development for teachers, principals, and administrators; or

“(E) improving the English proficiency of limited English proficient students;

“(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

“(A) significantly increase the annual performance of low-performing students; or



“(B) significantly improve in a fiscal year the English proficiency of limited English proficient students;

“(3) to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels;

“(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

“(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(e) **DEFINITION.**—The term ‘low-performing student’ means a student who is below a basic State standard level.”.

#### **SEC. 304. ADDITIONAL ACCOUNTABILITY PROVISIONS.**

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

#### **“SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.**

“(a) **IN GENERAL.**—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which each such program will increase student academic achievement;

(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the program's performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

“(2) in the reports required under such part or title, a report for the preceding fiscal year regarding how the plan or application submitted for such fiscal year under such part or title was implemented, the recipient's progress toward attaining the performance goals and objectives identified in the plan or application for such year, and, if applicable, the extent to which programs funded in whole or in part with funds provided under such part or title increased student achievement.

“(b) **PENALTIES.**—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

“(1) withhold not less than 50 percent of the funds made available under the relevant program for administrative expenses for the succeeding fiscal year, and for each consecu-

tive fiscal year until the recipient meets such performance goals and objectives; and

“(2) in the case of—

“(A) a competitive grant (as determined by the Secretary), consider the recipient ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

“(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

“(c) **OTHER PENALTIES.**—A State that has not met the requirements of subsection (a)(1)(B) with respect to a fiscal year—

“(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

“(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

#### **“(d) SPECIAL RULE FOR SECRETARY AWARDS.**

“(1) **IN GENERAL.**—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary, or a contract or cooperative agreement entered into with the Secretary, for a program shall include the following information in any application or plan required for such program:

“(A) How funds provided under the program will be used and how such use will increase student academic achievement.

“(B) The goals and objectives to be met, including goals for dissemination and use of the information or materials produced, where applicable.

“(C) If the grant requires dissemination of information or materials, how the recipient will track and report annually to the Secretary—

“(i) the successful dissemination of information or materials produced;

“(ii) where information or materials produced are being used; and

“(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

“(2) **REQUIREMENT.**—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

#### **“(3) FAILURE TO ACHIEVE GOALS AND OBJECTIVES.**

“(A) **IN GENERAL.**—The Secretary shall evaluate the information submitted under this subsection to determine whether the recipient has met the goals and objectives described in paragraph (1)(B), where applicable, assess the magnitude of dissemination described in paragraph (1)(C), and, where applicable, assess the effectiveness of the activity funded in raising student academic achievement in places where information or materials produced with such funds are used.

“(B) **INELIGIBILITY.**—The Secretary shall consider the recipient ineligible for grants, contracts, or cooperative agreements under the program described in paragraph (1) if—

“(i) the goals and objectives described in paragraph (1)(B) have not been met;

“(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

“(iii) where applicable, the information or materials produced have not made a signifi-

cant impact on raising student achievement in places where such information or materials are used.”.

By Mrs. BOXER.

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am pleased to introduce the Department of Environmental Protection Affairs Act of 2001. The bill redesignates the Environmental Protection Agency (EPA) as the Department of Environmental Protection Affairs and makes the Department part of the president's cabinet.

As most of my colleagues know, President Nixon established EPA in 1970 as a response, in part, to water too polluted to drink and air too dirty to breathe. It had become clear by that time that air, waste and water pollution problems did not respect state boundaries, and that public health and environmental protections varied widely from state to state.

In the 30 years since its founding, EPA has played a critical role in ensuring that all Americans enjoy the same basic level of public health and environmental protection.

The Department of Environmental Protection Affairs Act of 2001 recognizes that fact. The bill reflects that today most Americans view protection of the public health and environment as duties of at least equal importance as our national programs for education, energy, defense, commerce and agriculture.

The impact of this bill, however, goes beyond the very important symbolic statement it makes.

First, elevating the EPA to the cabinet will ensure that the president is directly involved in setting environmental policies. While past presidents have chosen to make the EPA Administrator part of cabinet-level discussions, this bill expresses Congress' will that environmental protection is given its place among the other national issues which occupy the president and his cabinet.

Second, this bill will ensure that the EPA Administrator is on equal footing with her colleagues in the rest of the cabinet. This is important because some of the worst polluters in the nation are departments of the federal government. For example, Department of Defense and Department of Energy facilities are some of the most polluted toxic waste sites in the nation.

EPA must be on equal footing with those departments if it is to ensure that the environment is restored and that the public health is protected at those sites.

Third, this bill will strengthen EPA's role in negotiating international agreements with foreign nations. Protection of public health and the environment has increasingly become an important part of foreign relations. Most of the industrialized nations have afforded top status to their environmental officials. This bill will afford that status to our top environmental official.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of this important legislation. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Affairs Act of 2001".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) protection of public health and the environment is a mission of at least equal importance to the duties carried out by cabinet-level departments;

(2) the Federal Government should ensure that all Americans enjoy the same basic level of public health and environmental protection regardless of where they live;

(3) protection of public health and the environment increasingly involves negotiations with foreign nations, including the most highly industrialized nations all of whose top environmental officials have ministerial status; and

(4) a cabinet-level Department of Environmental Protection Affairs should be established.

#### SEC. 3. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection Affairs (in this Act referred to as the "Department") and shall be an executive department in the executive branch of the Government.

(b) SECRETARY OF ENVIRONMENTAL PROTECTION AFFAIRS.—

(1) IN GENERAL.—There shall be at the head of the Department a Secretary of Environmental Protection Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) NONDELEGATION.—The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) DELEGATIONS.—Except as described under paragraph (2) of this section and section 4(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) REGIONAL OFFICES.—The regional offices of the Environmental Protection Agency are redesignated as regional offices of the Department of Environmental Protection Affairs.

(f) INTERNATIONAL RESPONSIBILITIES OF THE SECRETARY.—

(1) IN GENERAL.—In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing, and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) CONSULTATION.—The Secretary of State shall consult with the Secretary of Environmental Protection Affairs and such other persons as he determines appropriate on such negotiations, implementation, and participation described under paragraph (1)(A).

(g) AUTHORITY OF THE SECRETARY WITHIN THE DEPARTMENT.—Nothing in this Act—

(1) authorizes the Secretary of Environmental Protection Affairs to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection Affairs, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection Affairs to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection Affairs any authority exercised by any other Federal executive department or agency before the effective date of this Act, except the authority exercised by the Environmental Protection Agency.

(h) APPLICATION TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.—This Act applies only to activities of the Department of Environmental Protection Affairs, except where expressly provided otherwise.

#### SEC. 4. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—

(1) IN GENERAL.—The Secretary shall assign to Assistant Secretaries such responsibilities

as the Secretary considers appropriate, including—

(A) enforcement and compliance monitoring;

(B) research and development;

(C) air and radiation;

(D) water;

(E) pesticides and toxic substances;

(F) solid waste;

(G) hazardous waste;

(H) hazardous waste cleanup;

(I) emergency response;

(J) international affairs;

(K) policy, planning, and evaluation;

(L) pollution prevention;

(M) congressional, intergovernmental, and public affairs; and

(N) administration and resources management, including financial and budget management, information resources management, procurement and assistance management, and personnel and labor relations.

(2) ASSIGNMENT OF RESPONSIBILITIES.—The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without substantial prior written notification of such modification to the appropriate committees of the Senate and the House of Representatives.

(c) DESIGNATION OF RESPONSIBILITIES BEFORE CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF FUNCTIONS.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of Environmental Protection Affairs, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, and the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, without renomination or reconfirmation.

(e) CHIEF INFORMATION RESOURCES OFFICER.—

(1) IN GENERAL.—The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) RESPONSIBILITIES.—The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

#### SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 4(b) may be performed by 1 or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

#### SEC. 6. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department, the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

#### SEC. 7. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection Affairs.

#### SEC. 8. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

#### SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) ACCEPTANCE OF MONEY AND PROPERTY.—

(1) IN GENERAL.—The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) REGULATIONS.—The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government pro-

gram or any official involved in that program.

(b) SEAL OF THE DEPARTMENT.—

(1) IN GENERAL.—On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of Environmental Protection Affairs, until such time as the Secretary may cause a seal of office to be made for the Department of Environmental Protection Affairs of such design as the Secretary shall approve.

(2) CRIMINAL PENALTY FOR UNAUTHORIZED USE OF SEAL.—

(A) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following:

#### “§ 716. Department of Environmental Protection Affairs Seal

“(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of Environmental Protection Affairs, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than \$250 or imprisoned not more than 6 months, or both.

“(b) Whoever, except as authorized under regulations promulgated by the Secretary of Environmental Protection Affairs and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of Environmental Protection Affairs, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than \$250 or imprisoned not more than 6 months, or both.

“(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of Environmental Protection Affairs.”.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end:

#### “716. Department of Environmental Protection Affairs Seal.”.

(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The Secretary is authorized to acquire any of the following described rights if the related property acquired is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(d) ADVISORY COMMITTEE STANDARDS OF CONDUCT AND COMPENSATION.—The Secretary may promulgate regulations, no less stringent than any other applicable provision of law, regarding standards of conduct for members of advisory committees (and consultants to advisory committees), including requirements regarding conflicts of interest or disclosure of past and present financial and employment interests. The Secretary

may pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

#### SEC. 10. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) GOVERNMENT OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Any inherently governmental function of the Department shall be performed only by officers and employees of the United States.

(2) DEFINITION.—In this section, the term “inherently governmental function”—

(A) means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees; and

(B) includes—

(i) activities which require either the exercise of discretion in applying Government authority or the use of value of judgment in making decisions for the Government; and

(ii) work of a policy, decisionmaking, or managerial nature which is the direct responsibility of Department officials.

(b) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—The Secretary shall by regulation require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, for the conduct of research, development, evaluation activities, or for advisory and assistance services, to provide the Secretary, before entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) SUBCONTRACTORS.—Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF CONFLICTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) MITIGATION OF CONFLICTS.—If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if he—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTEREST.—The Secretary shall promulgate

regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) **DISCLAIMER.**—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) **RULES.**—Not later than 60 days after the effective date of this Act, the Secretary shall publish rules for the implementation of this section.

(g) **CENTRAL FILE.**—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(h) **DEFINITIONS.**—In this section, the term “advisory and assistance services” includes—

(1) management and professional support services;

(2) the conduct of studies, analyses, and evaluations; and

(3) engineering and technical services, excluding routine technical services.

#### SEC. 11. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to—

(1) the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection Affairs;

(2) the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection Affairs;

(3) the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection Affairs; or

(4) any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection Affairs.

#### SEC. 12. SAVINGS PROVISIONS.

(a) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PROCEEDINGS NOT AFFECTED.**—This Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals

shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) **SUITS NOT AFFECTED.**—This Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) **PROPERTY AND RESOURCES.**—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) **SAVINGS.**—The Department of Environmental Protection Affairs and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

#### SEC. 13. CONFORMING AMENDMENTS.

(a) **PRESIDENTIAL SUCCESSION.**—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end the following: “, Secretary of Environmental Protection Affairs”.

(b) **DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.**—Section 101 of title 5, United States Code, is amended by adding at the end the following: “The Department of Environmental Protection Affairs”.

(c) **COMPENSATION, LEVEL I.**—Section 5312 of title 5, United States Code, is amended by adding at the end the following: “Secretary of Environmental Protection Affairs”.

(d) **COMPENSATION, LEVEL II.**—Section 5313 of title 5, United States Code, is amended by striking “Administrator of Environmental Protection Agency” and inserting “Deputy Secretary of Environmental Protection Affairs”.

(e) **COMPENSATION, LEVEL IV.**—Section 5315 of title 5, United States Code, is amended—

(1) by striking “Inspector General, Environmental Protection Agency” and inserting “Inspector General, Department of Environmental Protection Affairs”; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end the following:

“Assistant Secretaries, Department of Environmental Protection Affairs (10).

“General Counsel, Department of Environmental Protection Affairs.”.

(f) **INSPECTOR GENERAL ACT.**—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 2(1)—

(A) by inserting “the Department of Environmental Protection Affairs,” after “Veterans Affairs,”; and

(B) by striking “The Environmental Protection Agency,”;

(2) in section 11(1) by striking “or Veterans Affairs” and inserting “Veterans Affairs, or Environmental Protection Affairs,”; and

(3) in section 11(2) by striking “or Veterans Affairs” and inserting “Veterans Affairs, or Environmental Protection Affairs,”.

#### SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

#### SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of enactment of this Act.

By Mrs. BOXER:

S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am introducing the Drug Abuse Treatment on Demand Assistance Act to help ensure that substance abuse treatment is available to all substance abusers who seek it.

According to the Department of Health and Human Services, each year drug and alcohol related abuse kills more than 120,000 Americans. In 1999, an estimated 14.8 million Americans were illicit drug users, with nearly 5 million of them addicted to drugs.

Drugs and alcohol abuse costs taxpayers nearly \$276 billion annually in preventable health care costs, extra law enforcement, auto crashes, crime and lost productivity.

In his final report before stepping down as America's Drug Czar, General Barry McCaffrey outlined the prescription for solving America's drug problem: “prevention coupled with treatment accompanied by research.” And drug treatment is now one of the goals of the National Drug Control Strategy.

To meet that goal, however, will require additional investment. Through the Substance Abuse Mental Health

Services Administration (SAMHSA), the federal government currently provides over \$2 billion to states and local entities for drug treatment programs, and total federal spending in this area is just over \$3 billion. But, fewer than half of America's nearly 5 million substance abusers are receiving treatment for their addiction.

While some substance abusers are not seeking treatment, many are—and are being turned away. In California, for example, 60 percent of all facilities that maintain a waiting list have an average of 23 people on their list on any given day. Nationwide, an estimated 2.7 million substance abusers are in need of treatment.

Current treatment on demand programs focus on the specific drug abuse needs of the local community. For instance, in San Francisco, methamphetamine abuse is especially problematic and continues to be on the rise. In other cities, cocaine abuse or marijuana is the drug of choice. Treatment programs should be targeted to address these local epidemics, but there is a funding shortfall.

The Drug Abuse Treatment on Demand Assistance Act would more than double SAMHSA's funding for drug treatment over five years—to \$6 billion in fiscal year 2006. This is an increase of \$600 million each year for five years. The additional funding is provided through SAMHSA's Center for Substance Abuse Treatment and it provides SAMHSA with flexibility to target funds where they are needed most.

The Drug Abuse Treatment on Demand Assistance Act would also reward states that have instituted a policy of providing substance abuse treatment to non-violent drug offenders as an alternative to prison, as California recently did with the enactment of Proposition 36. The bill authorizes \$125 million per year for five years to provide matching grants to states. These funds could be used to help pay for treatment as well as to provide other elements of a comprehensive anti-drug abuse program for non-violent offenders, including drug testing and probation services.

Mr. President, recent studies indicate that every additional dollar invested in substance abuse treatment saves taxpayers \$7.46 in societal costs. Clearly, such an investment is very worthwhile, and I urge my colleagues to support treatment on demand.

#### ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

S. 22

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr.

ROBERTS) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 29

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. SARBANES), the Senator from Washington (Mrs. MURRAY), the Senator from California (Mrs. BOXER), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 30

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 30, a bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes.

S. 35

At the request of Mr. GRAMM, the names of the Senator from Arizona (Mr. KYL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 35, a bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

#### SENATE RESOLUTION 14—COM-MENDING THE GEORGIA SOUTHERN UNIVERSITY EAGLES FOOT-BALL TEAM FOR WINNING THE 2000 NCAA DIVISION I-AA FOOT-BALL CHAMPIONSHIP

Mr. CLELAND (for himself, and Mr. MILLER) submitted the following resolution; which was considered and agreed to:

S. RES. 14

Whereas Georgia Southern University is a member of the Southern Conference of the National Collegiate Athletic Association Division I-AA and the Conference's champion for 4 consecutive years;

Whereas in 2000, Georgia Southern captured its second consecutive and a record-setting sixth overall Division I-AA national title;

Whereas Head Coach, Paul Johnson, has won numerous Coach of the Year awards during his career; has a 50-8 win-loss record at Georgia Southern, which is one of the best records in college football; and had 13 first-year starters in the 2000 season but was still able to win 13 games on the way to another national championship;

Whereas junior running back, Adrian Peterson, ran for 148 yards in the championship game, which marked the 43rd consecutive game in which he rushed for 100 or more yards;

Whereas the students, alumni, and supporters of Georgia Southern University, as well as the community of Statesboro, are to be congratulated for their unshakable commitment to the Georgia Southern University football team; and

Whereas their Division I-AA national championships in 1985, 1986, 1989, 1990, 1999, and 2000, as well as their place as runner-up in 1988 and 1998, make the Georgia Southern University program the most successful college football program in Division I-AA football history: Now, therefore, be it

*Resolved*, that the Senate—

(1) commends the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Georgia Southern University win the 2000 NCAA Division I-AA collegiate football national championship and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the accomplishments and achievements of the 2000 Georgia Southern football team and invite them to Washington, D.C. for a White House ceremony for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to Georgia Southern University for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2000 NCAA Division I-AA collegiate national championship football team.

Mr. CLELAND. Mr. President, I rise to pay tribute to the Georgia Southern University football team for their second consecutive and sixth overall NCAA's Division I-AA football national championship. In addition to the record number of National Championships, Georgia Southern has captured four consecutive Southern Conference titles. Never in the history of Division